

## Department of the Army, DoD

## § 536.92

accrues, and if good cause is shown, the claim may be presented not later than 2 years after war or armed conflict is terminated. As used in this section, a war or armed conflict is one in which any Armed Force of the United States is engaged. The dates of commencement and termination of an armed conflict must be established by concurrent resolution of Congress or by determination of the President.

### § 536.79 Where claim must be presented.

A claim must be presented to the appropriate Federal agency. Receipt of a written claim by any full time officer or employee of the National Guard will be considered receipt. However, the statute of limitations is tolled if a claim is filed with a State agency, the claim purports to be under the NGCA and it is forwarded to the Army within 6 months, or the claimant makes inquiry of the Army concerning the claim within 6 months. If a claim is received by a DA official who is not a claims approval or settlement authority, the claim will be transmitted without delay to the nearest approval or settlement authority.

### § 536.80 Procedures.

(a) The form of a claim under §§ 536.70 through 536.81 will be as described in § 536.5 (d) and (e).

(b) So far as they are not inconsistent with §§ 536.70 through 536.81, the guidance set forth in §§ 536.10 through 536.12 will be followed in processing a claim under §§ 536.70 through 536.81.

(c) The following provisions are applicable to claims under §§ 536.70 through 536.81 and are hereby incorporated by reference:

- (1) § 536.28 (applicable law);
- (2) § 536.29 (determination of quantum);
- (3) § 536.31 (claims over \$100,000);
- (4) § 536.32 (settlement procedures);
- (5) § 536.33 (attorney fees).

### § 536.81 Settlement agreement.

Procedures concerning settlement agreements will be in accordance with § 536.10, except that the agreement will be modified to include a State and its National Guard in most cases. A copy of the agreement will be furnished to

State authorities and the individual tortfeasor.

## Subpart D—Claims Incident to Use of Government Vehicles and Other Property of the United States Not Cognizable Under Other Law

### § 536.90 Statutory authority.

The statutory authority for §§ 536.90 through 536.97 is contained in the act of 9 October 1962 (76 Stat. 767, 10 U.S.C. 2737). This statute is commonly called the "Nonscope Claims Act." For the purposes of §§ 536.90 through 536.97, a Government installation is a facility having fixed boundaries owned or controlled by the Government, and a vehicle includes every description of carriage or other artificial contrivance used, or capable of being used, as a means of transportation on land (1 U.S.C. 4).

### § 536.91 Scope.

(a) Sections 536.90 through 536.97 prescribe the substantive bases and special procedural requirements for the administrative settlement and payment, in an amount not more than \$1,000, of any claim against the United States not cognizable under any other provision of law for damage to or loss of property, or for personal injury or death, caused by military personnel or civilian employees of the DA or by civilian employees of the DoD incident to the use of a United States vehicle at any place or incident to the use of other United States property on a Government installation.

(b) Any claim in which there appears to be a disputed issue relating to whether the employee was acting within the scope of employment will be considered under §§ 536.20 through 536.35, § 536.50, or §§ 536.70 through 536.81 as applicable. Only when all parties, to include an insurer, agree that there is no "in scope" issue will §§ 536.90 through 536.97 be used.

### § 536.92 Claims payable.

(a) *General.* A claim for personal injury, death, or damage to or loss of property, real or personal, is payable under §§ 536.90 through 536.97 when